

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

**CSABA V. FEKETE, and GABRIELA
FEKETE,**

v.

Plaintiffs,

3:14-CV-1545

J.P. MORGAN CHASE BANK

Defendant.

DECISION & ORDER

Thomas J. McAvoy, Senior District Judge.

This *pro se* civil action alleging misuse of Plaintiffs' funds deposited in Defendant's Bank was referred to David E. Peebles, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In the Report-Recommendation, dated January 14, 2015, Magistrate Judge Peebles recommends that Plaintiff's Complaint be dismissed in its entirety without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii) for failure to state a claim upon which relief can be granted. Magistrate Judge Peebles recommends that Plaintiffs be granted leave to file an amended Complaint that states a proper basis for federal jurisdiction.

Plaintiffs filed a timely objection to the Report-Recommendation pursuant to 28 U.S.C. § 636(b)(1). When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo* determination of those portions of the report or

specified proposed findings or recommendations to which the objection is made.” See 28 U.S.C. §636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

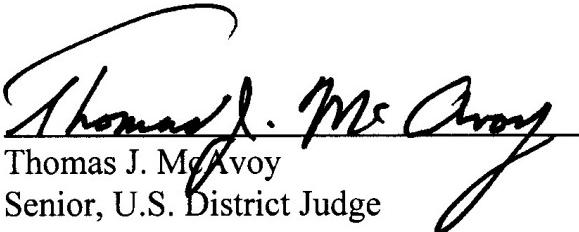
Having reviewed the record *de novo* and having considered the issues raised in the Plaintiffs’ objections, this Court has determined to accept the recommendation of Magistrate Judge Peebles for the reasons stated in the Report-Recommendation.

It is therefore ordered that:

- (1) Plaintiffs’ Objections, dkt. # 6, to the Report-Recommendation of Magistrate Judge Peebles, dkt. # 4, are hereby OVERRULED;
- (2) The Report-Recommendation is hereby ADOPTED;
- (3) The Plaintiffs’ Complaint, dkt. # 1, is hereby DISMISSED WITHOUT PREJUDICE. Plaintiffs are granted leave to file an Amended Complaint that properly states a basis for federal jurisdiction within twenty (20) days of the date of this order;
- (4) Upon the receipt of plaintiffs’ signed amended complaint, the Clerk shall return the file to the Court for review;
- (5) In the event plaintiffs fail to file a signed amended complaint within twenty (20) days from the date of the filing of this Decision and Order, the Clerk shall enter judgment dismissing this action without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii)-(iii) due to plaintiff’s failure to state a claim upon which relief can be granted and for failure to comply with the terms of this Decision and Order, without further Order of this Court.

IT IS SO ORDERED.

Dated: February 5, 2015


Thomas J. McAvoy
Senior, U.S. District Judge